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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,693	06/16/2004	Coke S. Reed	1001.P001 USC4	7797
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KOESTNER BERTANI LLP			EXAMINER	
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Irvine, CA 92612			ART UNIT	PAPER NUMBER
			2616	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 10/773,693	Applicant(s) REED, COKE S.	
	Examiner Brian D. Nguyen	Art Unit 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) 25-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-24 is/are rejected.
- 7) ☒ Claim(s) 7 and 36-45 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Objections

2. Claims 1, 3-13, 15, 18-20, 23-24, 36-40, and 42 are objected to because of the following informalities:

Claims 1, 6, 8-12, 15, 18-20, 36-38, 40, and 42, the term: "capable of" is not a positively recited limitation. It is suggested to delete this term from the claims.

Claim 1, line 5, it is suggested to replace "the devices in device set A" with --each device in the device set A--. Line 7, replace "the devices in device set Z" with --each device in the device set Z--. Line 17, insert --the-- before "device set A". Line 20, replace "plurality Z" with --set Z--. Line 21, replace "the sequence cy" with --a sequence cy--. Line 24, replace "the device set" with --a device set--.

Claim 3, line 6, it is suggested to replace "the level N" with --a level N--.

Claim 4, line 4, it is suggested to replace "the level LV_N with --a level LV_N -- and "the level LV_{N-1} " with --a level LV_{N-1} --. Line 10, insert --the-- before "device set Z(D)".

Claim 5, line 3, it is suggested to insert --the-- before "node q". Line 4, replace "pis" with --p is--.

Claim 7, line 4, it is suggested to replace "P" with --p--.

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Claim 11, line 3, it is suggested to replace "NA" with --N_A--.

Claim 12, line 10, it is suggested to replace "the logic element" with --a logic element--.

Line 11, insert --the-- before "node N_A--.

Claim 13, line 5, it is suggested to delete "--carrying". See claim 8, line 5. Line 8, replace "the plurality" with --a plurality--.

Claim 15, line 5, it is suggested to insert --the-- before "device set A". Line 6, insert --the-- before "node set T". Line 7, insert --the-- before "device set Z". Line 8, insert --the-- before "node set T". Line 9, insert --the-- before "path set P". Line 10, insert --the-- before "path set P". Line 19, insert --the-- before "node N_A". Line 20, insert --the-- before "node N_D" and "node N_E" and insert --a-- before "device set Z(N_A)", "device set Z(N_D)", and "device set Z(N_E)". Line 21, insert --the-- before "device set Z(N_A)".

Claim 19, line 5, it is suggested to replace "the plurality of data" with --a plurality of data--. Line 8, replace "the plurality of control" with --a plurality of control--.

Claim 20, line 11, it is suggested to insert --the-- before "node N_A".

Claim 23, line 5, it is suggested to replace "the plurality of data" with --the set of data--. Line 8, replace "the plurality of control" with --a plurality of control--.

Claim 24, lines 7, it is suggested to replace "the node set. U" with --the node set U-- and insert --the-- before "node N_A". Line 9, replace "the device set Z(L_{AE})" with --a device set Z(L_{AE})-- and "the device subset" with --a device subset--.

Claim 36, line 12, it is suggested to insert --the-- before "device set I" and replace "the device t_A" with --the devices t_A--. Line 14, insert --the-- before "device set I" and replace "the

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device t_D " with --the devices t_D --. Line 16, insert --the-- before "device set I" and replace "the device t_E " with --the devices t_E --.

Claims 38 and 39 should be dependent on claim 37.

Claim 40, lines 10, 12, 14, 17, and 18, it is suggested to replace "the path set P" with --the paths P--. Lines 11, 13, and 15, replace "to the device in" with --to a device in--.

Claim 42, lines 10, 12, 14, 17, and 18, it is suggested to replace "the path set P" with --the paths P--. Lines 11, 13, and 15, replace "to the device in" with --to a device in--.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-6 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-3, 5, and 7-9 of U.S. Patent No. 7,068,671. Although the conflicting claims are not identical, they are not patentably distinct from each other because, for

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example in claim 1, a member Q of the collection C of patent 7,068,671 is replaced by a member Y of this application. It is obvious that a member named Q in one patent can be named Y in another application where the member performs the same function as before.

5. Claim 14 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 18 and 29 of U.S. Patent No. 7,068,671. Although the conflicting claims are not identical, they are not patentably distinct from each other because independent claim 8 is identical to claim 18 of Patent No. 7,068,671 and the limitations described in claim 14 are parts of claim 29. Therefore, claim 14 is obvious over claim 18 in view of claim 29 of Patent No. 7,068,671.

6. Claim 24 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 40 and 49 of U.S. Patent No. 7,068,671. Although the conflicting claims are not identical, they are not patentably distinct from each other because independent claim 15 is identical to claim 40 of Patent No. 7,068,671 and the limitations described in claim 24 are parts of claim 59 where an interconnect link L is replaced by link IL. Therefore, claim 24 is obvious over claim 40 in view of claim 49 of Patent No. 7,068,671.

7. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

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8. Claims 8-13 and 15-23 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 18, 21-25, 40, 43-46, 49, and 51-53 of prior U.S. Patent No. 7,068,671. This is a double patenting rejection.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian D. Nguyen whose telephone number is (571) 272-3084. The examiner can normally be reached on 7:30-6:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Firmin Backer can be reached on (571) 272-6703. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



8/5/07

**BRIAN NGUYEN
PRIMARY EXAMINER**